

CALIFORNIA COASTAL COMMISSION

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W15c

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Hearing date: 05/12/04
Substantial Issue: 04/15/04

APPEAL: DE NOVO STAFF REPORT

Appeal numberA-3-MRB-03-091, Steinmann RV Park

ApplicantsEd Ewing and Joe Steinmann

AppellantJoe and Charlotte Wallick

Local governmentCity of Morro Bay

Local decisionApproved with conditions on August 11, 2003. Conditions of approval include increasing the density of the Park to a maximum of 58 units and extending the length of stay to 90 days at a time.

Project location221 Atascadero Road, Morro Bay, San Luis Obispo County (APNs 065-182-007, 065-182-008).

Project descriptionOriginal application was for development of a 24-space Recreational Vehicle (RV) Park on approximately 1.6 acres site, including utility extensions, manager's residence, and visitor parking spaces. City conditions changed it to a maximum of 58-space park.

File documentsMorro Bay Certified Local Coastal Program (LCP); Morro Bay Coastal Development Permit 06-03R; Commission Substantial Issue Staff Report (April 15, 2004).

Staff recommendation ...Approval with Conditions

Summary of Staff Recommendation:

The proposed development is a 58-unit Recreational Vehicle (RV) park on a 71,500 square foot parcel zoned for visitor-serving commercial uses (project plans and location map attached as Exhibit 1). The proposed development is located adjacent to sensitive habitat and Morro Bay High School at 221 Atascadero Road within a short walk through coastal dunes to Morro Strand State Beach. The certified LCP allows overnight recreational vehicle (RV) camping and RV parks with a conditional use permit.

At its April 15, 2004 meeting in Santa Barbara, the Commission determined that a **substantial issue** exists regarding the project's conformance with the visual resource, sensitive habitat, and visitor-serving policies of the Morro Bay certified LCP. The *de novo* hearing was continued to provide staff with the opportunity to evaluate additional information from the applicants pertaining to: 1) a proposed reduction



**California Coastal Commission
May 12, 2004 Meeting in San Rafael**

Staff: M. Watson Approved by:

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in the allowable density and increase in setback requirements for the proposed R-V park at this location, 2) new terms of occupancy, 3) compatibility with surrounding development, and 4) impacts on sensitive habitat.

The LCP is supportive of R-V parks in visitor-serving commercial districts, but is clear to stipulate that R-V use must be transient and not become a *de facto* mobile home park. In addition, the LCP prohibits development that would result in the degradation of visual resources and sensitive habitats. In this instance, though the development approved by the City is inconsistent with the certified LCP, it is possible to support some measure of visitor serving use on the site that meets the density and setback requirements of the LCP and avoids or minimizes adverse impacts to visual resources and sensitive habitats. Accordingly, staff recommends that the Commission **approve with conditions** the application for a coastal development permit for a recreational vehicle park at this location. The conditions of approval decrease the density of the park and place time limits on the length of stay to ensure the transient nature of the park and promote the visitor-serving aspects of the project. With the recommended conditions of approval, the proposed project can be brought into compliance with applicable Local Coastal Program policies and ordinances.

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I. Standard of Review for Appeals

Section 30625(b) of the Coastal Act requires the Commission to conduct a *de novo* coastal development permit hearing on an appealed project unless a majority of the Commission finds that “no substantial issue” is raised by such allegations. The Commission found substantial issue on April 15, 2004. Under section 30604(b), when the Commission conducts a *de novo* hearing, the Commission must find that the proposed development is in conformity with the certified local coastal program. Section 30604(c) also requires an additional specific finding that the development is in conformity with the public access and recreation policies of Chapter Three of the Coastal Act, if the project is located between the first public road and the sea, which is the case with this project.

Whereas the only persons qualified to testify before the Commission on the substantial issue question are the Applicant, persons who made their views known before the local government (or their representatives), and the local government, any person may testify during the *de novo* stage of an appeal.

II. Staff Recommendation on CDP Application

The staff recommends that the Commission, after public hearing, **approve** a coastal development permit for the proposed development subject to the standard and special conditions below.

Motion. I move that the Commission approve Coastal Development Permit Number A-3-MRB-03-091 pursuant to the staff recommendation.

Staff Recommendation of Approval. Staff recommends a **YES** vote. Passage of this motion will result in approval of the coastal development permit as conditioned and adoption of the following resolution and findings. The motion passes only by affirmative vote of a majority of the Commissioners present.

Resolution to Approve a Coastal Development Permit. The Commission hereby approves a coastal development permit for the proposed development and adopts the findings set forth below on grounds that the development as conditioned will be in conformity with the provisions of the City of Morro Bay certified Local Coastal Program. Approval of the permit complies with the California Environmental Quality Act because either 1) feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the development on the environment, or 2) there are no further feasible mitigation measures or alternatives that would substantially lessen any significant adverse impacts of the development on the environment.

III. Conditions of Approval



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A. Standard Conditions

1. **Notice of Receipt and Acknowledgment.** The permit is not valid and development shall not commence until a copy of the permit, signed by the Permittee or authorized agent, acknowledging receipt of the permit and acceptance of the terms and conditions, is returned to the Commission office.
2. **Expiration.** If development has not commenced, the permit will expire two years from the date on which the Commission voted on the application. Development shall be pursued in a diligent manner and completed in a reasonable period of time. Application for extension of the permit must be made prior to the expiration date.
3. **Interpretation.** Any questions of intent or interpretation of any condition will be resolved by the Executive Director or the Commission.
4. **Assignment.** The permit may be assigned to any qualified person, provided assignee files with the Commission an affidavit accepting all terms and conditions of the permit.
5. **Terms and Conditions Run with the Land.** These terms and conditions shall be perpetual, and it is the intention of the Commission and the Permittee to bind all future owners and possessors of the subject property to the terms and conditions.

B. Special Conditions

1. **Revised Project Plans. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT,** the permittee shall submit to the Executive Director for review and approval revised project plans for a 24-space transient R-V park that adheres to all visitor-serving commercial (C-VS) zoning regulations including, but not limited to, yard setbacks and minimum lot area. The revised plans shall be in substantial conformance with the plans dated May 31, 2003. No parking space or portion thereof shall be located in the front yard setback. Trash receptacles shall similarly be located outside the front yard setback and shall be properly screened within solid enclosure walls/gates. No fencing or portion thereof shall be located within the yard setback areas and fencing shall be limited to a height of six (6) feet or less.
2. **Landscape Plan. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT,** the permittee shall submit to the Executive Director for review and approval a Landscape Plan to screen and soften the impacts of the development. The plan shall provide for planting the front and side yard setback areas with native species of local stock, prohibit the use of non-native or invasive species, include fencing along the primary elevations, and include a long-term monitoring and maintenance plan. The Landscape Plan shall state that pesticides shall not be used on the landscaping on the site. The Landscape Plan shall clearly identify in site plan view the type, size, extent, and location of all native plant materials to be used, as well as the method and extent of irrigation that will be used to ensure planting success.
3. **Land Use Requirements.** The proposed R-V park shall retain one permanent on-site manager to



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monitor use of the park and maintain records on tenancy and length of stay. Other than as provided for the on-site manager, permanent residency shall be prohibited in the park. Occupation of RV spaces shall be limited to a maximum of 30 continuous days, per vehicle, or a total of 90 days maximum per year. A minimum of 30 days must elapse between each 30 day or less period of occupancy.

- 4. Other Agency Approvals. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT,** the applicant shall submit to the Executive Director for review and approval documentation demonstrating that the U. S. Fish & Wildlife Service has approved the protocol surveys prepared for the presence of Morro Shoulderband snails and concurs with the results and conclusions drawn from those surveys. Should the USFWS not concur with the methods or conclusions of the prepared surveys, the applicant shall be required to obtain an amendment to this permit to mitigate for impacts which may involve avoidance of habitat, off-site mitigation, minimization of disturbance or some combination of all three.
- 5. Compliance with Local Conditions of Approval.** With the exception of City Conditions 28 and 31, all 32 conditions of the City of Morro Bay Coastal Development Permit # 06-03R become conditions of this permit. (See Exhibit 2 of this report for a copy of the local conditions of approval). Because the City imposed these conditions under legal authority that included but was not limited to the Coastal Act, they remain binding on the applicant as City requirements notwithstanding the Commission's action on this appeal. Accordingly, **PRIOR TO TRANSMITTAL OF THE COASTAL DEVELOPMENT PERMIT,** the permittee shall provide evidence to the Executive Director that those conditions requiring action prior to the commencement of any work have been signed-off by the appropriate City official. Evidence of subsequent condition compliance must also be submitted to the Executive Director at the required stage. In the event that City officials do not exercise such authority, permittee shall submit condition compliance materials to the Executive Director for review and approval.
- 6. Deed Restriction. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT,** the applicant shall submit to the Executive Director for review and approval documentation demonstrating that the applicant has executed and recorded a deed restriction, in a form and content acceptable to the Executive Director: (1) indicating that, pursuant to this permit, the California Coastal Commission has authorized development on the subject property, subject to terms and conditions that restrict the use and enjoyment of that property (hereinafter referred to as the "Standard and Special Conditions"); and (2) imposing all Standard and Special Conditions of this permit as covenants, conditions and restrictions on the use and enjoyment of the Property. The deed restriction shall include a legal description of the applicant's entire parcel or parcels. The deed restriction shall also indicate that, in the event of an extinguishment or termination of the deed restriction for any reason, the terms and conditions of this permit shall continue to restrict the use and enjoyment of the subject property so long as either this permit or the development it authorizes, or any part, modification, or amendment thereof, remains in existence on or with respect to the subject property.



IV. Recommended Findings and Declarations

The Commission finds and declares as follows:

A. Project Location, Description, and Background

The proposed development is located in the Morro Rock planning area at 22 Atascadero Road adjacent to Morro Bay High School in the City of Morro Bay. The site is bounded by existing industrial development to the south and Morro Bay High School to the north with a private residence adjacent to the east and sensitive dune and wetland habitat to the west. The proposed project site is roughly one-eighth of a mile east of an informal public access trail that leads to Morro Strand State Beach. See Exhibit 1.

The site of the proposed development is zoned visitor-serving commercial (C-VS) with a planned development (PD) overlay. The purpose of the C-VS district is to provide for commercial uses intended primarily to serve the needs of tourists and other visitors and not to include commercial uses oriented towards residents. The PD overlay provides for detailed and substantial analysis of development on parcels, which because of location, size, or public ownership, warrant special review. This overlay also is intended to allow for modification of or exemption from the development standards of the primary zone that would otherwise apply if such action would result in a better design or other public benefit.

On August 11, 2003, the City of Morro Bay approved a Coastal Development Permit for the establishment of an RV park on the roughly 71,500 square foot parcel. The City's approval included conditions, which increased the density of the park and extended the length of stay for park visitors beyond that proposed by the applicant. The increase in density and extended occupancy gave rise to concerns regarding the project's consistency with the visitor-serving zoning, and the visual resources and sensitive habitat policies and standards of the certified LCP.

An appeal of the decision filed with the Coastal Commission challenged changes made by the Planning Commission and City Council to the 24-unit park originally proposed by the applicant, stating that the project was transformed into a potential 58-space extended-stay RV parking lot/mobile home park. The appeal contended that these changes violate density standards, setback requirements, and that increased impacts on traffic, aesthetics, and nearby sensitive habitat have not been adequately evaluated. The appeal further raised concerns about the precedent this would set for other RV park development proposals west of Highway 1. Please see Exhibit 4.

At its April 15, 2004 meeting in Santa Barbara, the Commission determined that a substantial issue exists regarding the project's conformance with the visual resource, sensitive habitat, and visitor-serving policies of the Morro Bay certified LCP. The *de novo* hearing was continued to provide staff with the opportunity to evaluate additional information from the applicants pertaining to: 1) a proposed reduction in the allowable density and increase in setback requirements for the proposed R-V park at this location, 2) new terms of occupancy, 3) compatibility with surrounding development, and 4) impacts on sensitive habitat.



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B. Issue Analysis

1. Visitor Serving Priorities

The City's certified zoning standards detail specific uses and guidelines for development within visitor serving commercial (C-VS) and Planned Development (PD) overlay zone. Those policies state:

17.24.120 Visitor-serving commercial (C-VS) district.

Purpose. The purpose of the visitor-serving commercial (C-VS) district is to provide a district for commercial uses intended primarily to serve the needs of tourists and other visitors to the city and not to include commercial uses of a more general nature which are oriented towards residents. Uses in this tourist-oriented district shall also provide for landscaping and related aesthetic improvements which create and enhance the visual attractiveness of the city.

17.40.030 Planned development, (PD) overlay zone.

A. Purpose. The purpose of the planned development (PD) overlay zone, is to provide for detailed and substantial analysis of development on parcels which, because of location, size or public ownership, warrant special review. This overlay zone is also intended to allow for the modification of or exemption from the development standards of the primary zone which would otherwise apply if such action would result in better design or other public benefit.

D. General Development Standards. The standards for development within a PD overlay zone shall be those of the base zoning district, provided however, that standards may be modified by the planning commission or city council as they relate to: building heights; yard requirements; and minimum lot area for dwelling units in the density range provided that any specific design criteria of the general plan and coastal land use plan, applicable to the property, is not exceeded. For those areas of the city which are covered by the waterfront master plan, all new development projects requiring discretionary permits (conditional use permits, etc.) shall be consistent with the design guidelines contained in Chapter 5 of the waterfront master plan. Modifications of standards shall only be approved upon a finding that greater than normal public benefits may be achieved by such deviations. Such benefits may include, but are not limited to improved or innovative site and architectural design, greater public or private usable open space and provisions of housing for the elderly or low/moderate income families, provision of extraordinary public access, provision for protecting environmentally sensitive habitat (ESH) areas, but in all cases these provisions shall meet the coastal land use policies.

Analysis

The purpose of the visitor-serving commercial (C-VS) district in which the development is located is to provide commercial uses serving visitors to the City. Allowable uses provided in Section 17.24.120 of the LCP (Exhibit 3, page 9) include overnight RV camping and in-park stores for sundries and other RV related goods. As proposed by the applicant, the 24 unit RV park was entirely consistent with the certified LCP and the standards established for the C-VS district. However, the City's approval included special conditions which increased the density of the park beyond the limits of the zoning standards. The



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approval also exempted the applicant from the front yard setback requirements of the primary zoning. The City cited the provisions in the planned development overlay to justify reducing the minimum lot size and setback requirements at the site. Though the PD overlay does allow for modifications to, or exemptions from, the development standards of the primary zone that would otherwise apply, it is only allowed for projects that would result in better design or involve greater than normal public benefits. The Planning Commission (PC) believed that increasing the number of RV sites would result in a public benefit, though the PC recognized that doing so [increasing RV density] would require amending and recirculating the mitigated negative declaration prepared for the project. That has not occurred.

Secondly, the LCP standards are clear regarding the need to ensure uses are visitor-serving oriented (i.e., transient) as opposed to more permanent residential uses. In this case, the City approval extended the length of continuous occupancy at the RV Park to 90 days with a minimum 30 day vacancy period prior to returning for another 90 days. Under this scenario, an RV owner could stay an entire summer or fall season, when visitor-serving accommodations are most needed, without vacating their RV space. This could significantly diminish the availability of overnight accommodations at this park and as well as in other visitor-serving facilities in the area if they pursue similar terms of occupancy. For this reason and the issue raised above, the City-approved project is not consistent with the visitor serving priorities of the certified LCP.

Staff has had several discussions with the applicant's agent regarding the shortcomings of the City-approved project. As a result of those meetings, the applicant has suggested reducing the number of RV units to bring the approved density back in-line with the primary zoning standard for minimum lot size. The applicant has agreed to limit the number of transient RV spaces to 24 units, as originally proposed, including one on-site resident space. In addition, the applicant has agreed to limit the length of continuous occupancy at the RV Park to 30 days and 90 days total per year with a 30-day vacancy required between stays. Both Commission staff and the applicant agree that the most expeditious way to implement these changes would be through special conditions of approval. Therefore, staff is recommending special condition 1 requiring revised plans for a 24-unit RV Park that adheres to all the standards of the primary zoning including density and yard setback requirements. As conditioned, the proposed project will further visitor-serving priorities and be consistent with sections 17.24.120 and 17.40.030 of the City's certified LCP.

2. Visual Resources.

The certified LCP characterizes the City's visual resources as "unique" and of "spectacular visual quality." The LCP notes that the City should "conspicuously seek to take better advantage of its visual qualities while attempting to restore and repair damage done to those qualities." To achieve these goals, the City's certified LCP policies detail specific public viewshed protections, which state, in part:

Policy 12.01

The scenic and visual qualities of coastal areas shall be considered and protected as a resource of public importance. Permitted development shall be sited and designed to protect views to and along the ocean and scenic and coastal areas, to minimize the alteration of natural land forms, to be visually compatible with the character of surrounding areas, and where feasible, to restore



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and enhance visual quality in visually degraded areas. New development in highly scenic areas such as those designated on Figure 31, shall be subordinate to the character of its setting.

17.48.190 General Regulations: Protection of visual resources and compatible design.

New development shall project and, where feasible, enhance the visual quality of the surrounding area. New development may be permitted only if the siting and design meet the following standards:

A. Protection of public views: significant public views to and along the coast are protected.

C. Compatibility: the development is visually compatible with the character of the surrounding area and any design themes adopted for the area by the city.

D. Visual quality: restores and enhances visual quality in visually degraded areas.

Analysis

The project site is visually significant due to its location along a primary coastal access route that links Highways 1 and 41 with Morro Strand State Beach. The project site is located on Atascadero Road less than one-half mile from its terminus at the dirt beach parking lot at the south end of Morro Strand State Beach. Seaward of the proposed project site is an undeveloped parcel that adjoins to back-beach coastal dunes and ultimately Morro Strand State Beach. The parcels are divided by a 12' service road that is the entrance to Morro Bay High School. Development on the project side (i.e., north side) of Atascadero Road is limited to one small residence and a youth center. Morro Bay High School is north of the existing parcels along Atascadero. By contrast, development on the south side of Atascadero is more extensive including the City's Municipal Water Treatment Plant and storage yard, a cement plant, public baseball fields, and roller rink. Just beyond the existing development, Atascadero Road bends 90 degrees to the south paralleling the beach. On the inland side of Atascadero Road is a large Recreational Vehicle parking lot and overnight RV camping park. Seaward of Atascadero Road are coastal dunes and Morro Strand State Park.

As currently approved by the City, the project would introduce upwards of 36 – 56 RV units on the undeveloped 1.6 acre site and allow development within the required front yard setback. Aside from being inconsistent with the visitor serving priorities of the LCP, the exemptions to standard LCP density and setback requirements approved by the City have the potential to conflict with LCP visual resource protection requirements by blocking coastal views, reducing landscaping, and introducing a design and intensity of use that is not compatible with surrounding development. Unlike the clutter of development south of Atascadero Road, the north side of the road is relatively undeveloped. There is an undeveloped four acre site that backs up to the beach dunes, the undeveloped subject site (1.6 acres), an approximate .6 acres site developed with a single family residence, another 1.5 acre site developed with a youth center, and an undeveloped 2 acre site that abuts Highway 1. Morro Bay High School is setback from these first row of parcels and is well screened by trees and shrubs. Assuming the RV Park is constructed to the maximum allowed, between 36 and 56 RV units will be parked within the 1.6 acre site along with



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additional vehicles and other camping equipment. As one would expect, this will dramatically increase the intensity of use and decrease the visual quality of the north Atascadero Road corridor. Natural views of the coastal dunes and back beach will be distorted and degraded by the introduction of an urban landscape. The City's certified LCP requires new development to protect and enhance views of the surrounding area and to restore and enhance visually degraded areas. The City approval will degrade public views. Therefore, as approved by the City of Morro Bay, the proposed development does not conform to the certified LCP.

As noted in section 1 above, the applicant has proposed reducing the number of RV spaces to address among other things, the visual resource concerns raised in the substantial issue hearing. Special Condition 1 limits the number of RV spaces to 24 assuring a minimum lot size of 2,900 square feet per site. In addition, all yard setbacks are required to meet the minimum necessary to conform to the primary zoning standards, trash receptacles are to be enclosed and screened, and parking for additional vehicles may not occur within the required setbacks. Reducing the density of the RV Park will allow the applicant to meet setback requirements and provide more open space, landscaping and visual separation between RV's. Special Condition 2 requires the applicant to submit a landscape plan that will screen and soften the visual impact of the RV park. Native, non-invasive plants of local stock shall be used along the front yard, side yards, and within the interior of the Park. Fencing shall be required but not allowed to exceed six feet in height. As so conditioned, the project is consistent with sections 12.01 and 17.48.190 of the City's certified LCP.

3. Environmentally Sensitive Habitat Areas (ESHA).

The City of Morro Bay has many unique environmental habitat areas that are within and immediately adjacent to the community. Besides providing a unique setting for the City, these are critical habitat areas for several rare and endangered plants and animal species. Accordingly, the certified LCP contains specific policies and standards to ensure the protection of these habitat areas and the variety of plant and animal life it supports. Those policies state in part:

Policy 11.01

Environmentally sensitive habitat areas shall be protected against any significant disruption of habitat values and only uses dependent on such resources shall be allowed within such areas.

Policy 11.02

Development in areas adjacent to environmentally sensitive habitat areas and parks and recreation areas shall be sited and designed to prevent impacts which would significantly degrade such areas and shall maintain the habitat's functional capacity.

Policy 11.05

Projects which could adversely impact an environmentally sensitive habitat area shall be subject to adequate environmental impact assessment by a qualified biologist.



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Policy 11.19

New development adjacent to wetlands shall not result in adverse impacts due to additional sediment, runoff, noise, and other disturbances.

Analysis

During the planning phase of the project, the City circulated a mitigated negative declaration based on the applicant's original proposal for a 24-space RV park on a 70,000 square foot (1.6 acre) site. The Negative Declaration referred to a biological assessment prepared by the Morro Group in March 2003 that evaluated the potential for occurrence of sensitive resources within or near the project. In addition, Morro Group biologist conducted protocol-level surveys for Morro shoulderband Snail (December '02 – March '03) and inventoried the natural resources of the project site and adjacent areas. Although the assessment concluded that the proposed development site did not contain suitable habitat for any sensitive plant or animal species, it did identify environmentally sensitive areas and the presence of federally threatened and endangered species in the coastal dunes seaward of the project site and among the riparian vegetation on the adjacent lot. The biological assessment found that the project site was in close proximity to areas occupied by the Western snowy plover and Morro shoulderband snail, but that the project was not likely to affect either species since the project site was separated from the sensitive areas by a paved driveway leading to Morro Bay High School and that past uses on the site rendered it heavily disturbed.

Western snowy plover requires sandy, gravelly, or friable soil substrates for nesting, thus it is very unlikely that this species would nest on the project site due to the absence of suitable nesting and foraging habitat. Morro shoulderband snail (MSS) prefers the sandy soils of coastal dune scrub communities and has also been reportedly associated with introduced sea fig (ice plant). The shell remains of two snails were found on the adjacent property across the High School access road, though protocol surveys conducted on the project site failed to turn-up any live snails or shell remains. Staff visited the site in mid-April 2004 and noted that the site appeared to be heavily disturbed, used as a dump site, and covered with grading spoils. Still, the biological assessment concluded its findings were sufficient to establish the presence of a limited amount of potentially suitable native and non-native habitat for the MSS along the eastern, western, and northern boundary of the survey property but that the project appears to have minimal potential to result in "take" of Morro shoulderband snail. The assessment recommended that a concurrence determination by the USFWS and other mitigation measures be implemented and the City included the recommendation as a condition of its permit.

As noted, the biological assessment was based on the original project proposal of a 24-space RV park. The City's approval allows an increase in density from 24 units to between 36 and 56 units. In order to accommodate the upper density range, setbacks will be reduced or eliminated, meaning less area available for buffering and screening the proposed development. The additional RV spaces will result in additional coverage, additional vehicles, more runoff, more sedimentation, more noise, and other human disturbances. The City's approval and the mitigated negative declaration did not include an evaluation of the additional impacts [on sensitive habitat and federally listed and threatened species] associated with the increase in density (i.e., additional RV spaces). As such, the City's approval conflicts with the



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certified LCP policies that specifically require new development to avoid and minimize impacts to sensitive habitat. They further require new development adjacent to sensitive habitat areas to maintain the functional capacity of ESHA (11.02) and protect against adverse impacts from runoff, sedimentation, noise and other disturbances (11.19). Additionally, since the approved project is not the same project evaluated by the biological assessment, the approval is inconsistent with LCP 11.05 that specifically requires all development that has the potential to adversely impact sensitive habitat to prepare an environmental assessment. Contrary to these requirements, the adverse impacts to nearby sensitive habitat areas posed by the increased density approved by the City have not been adequately considered.

Staff has discussed these issues with the applicant's agent who has suggested that the best way to resolve them may be by limiting the number of overnight RV spaces to 24 units as originally proposed. Staff agrees that lessening the intensity of use will reduce the impacts on nearby sensitive habitat and animal communities. It will allow for a larger buffer between the development and habitat area. Fewer RV spaces equate to fewer RV's, fewer people, less light, noise, runoff, etc. There will, of course, be impacts associated with construction of the 24-unit RV park, though those will be adequately mitigated by implementing the mitigation measures contained in the negative declaration.

Accordingly, staff is recommending special condition 1 which limits the number of overnight RV spaces to 24 units and requires the project to adhere to all visitor-serving commercial (C-VS) zoning regulations including, but not limited to, yard setbacks and minimum lot area. Staff also recommends special condition 4, which requires the applicants to obtain a letter of concurrence from the USFWS prior to issuance of the coastal development permit. With these conditions, the proposed project is consistent with sections 11.01, 11.02, 11.05, and 11.19 of the certified LCP.

4. Public Access and Recreation.

Coastal Act Section 30604(c) requires that every coastal development permit issued for any development between the nearest public road and the sea "shall include a specific finding that the development is in conformity with the public access and public recreation policies of [Coastal Act] Chapter 3." The proposed project is located seaward of the first through public road on the beach. Coastal Act Sections 30210 through 30213 and 30220 through 30221 specifically protect public access and recreation. In particular:

***Section 30210:** In carrying out the requirement of Section 4 of Article X of the California Constitution, maximum access, which shall be conspicuously posted, and recreational opportunities shall be provided for all the people consistent with public safety needs and the need to protect public rights, rights of private property owners, and natural resource areas from overuse.*



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***Section 30211:** Development shall not interfere with the public's right of access to the sea where acquired through use or legislative authorization, including, but not limited to, the use of dry sand and rocky coastal beaches to the first line of terrestrial vegetation.*

***Section 30212(a):** Public access from the nearest public roadway to the shoreline and along the coast shall be provided in new development projects...*

***Section 30213:** Lower cost visitor and recreational facilities shall be protected, encouraged, and, where feasible, provided. Developments providing public recreational opportunities are preferred. ...*

***Section 30220:** Coastal areas suited for water-oriented recreational activities that cannot readily be provided at inland water areas shall be protected for such uses.*

***Section 30221:** Oceanfront land suitable for recreational use shall be protected for recreational use and development unless present and foreseeable future demand for public or commercial recreational activities that could be accommodated on the property is already adequately provided for in the area.*

The proposed development of an overnight RV park located at 221 Atascadero Road is within a short walk (i.e., approximately one-eighth of a mile) to an informal public vertical access point to Morro Strand State Beach. Public parking is available at the end of Atascadero Road near the mouth of Morro Creek with vertical access points through the back-beach dunes. The site of the proposed development is currently undeveloped. With the construction of the park, the proposed development will provide an additional 24 overnight RV spaces near the beach. The proposed project has been conditioned to ensure the transient nature of the park and promote low cost visitor-serving accommodations near the beach. As such, the proposed RV Park will not preclude public access and recreational opportunities to and along Morro Strand State Beach, but in fact, expand and improve them. Accordingly, the proposed project is consistent with the Chapter 3 policies for it will expand and enhance public access and recreation opportunities while protecting the natural resources of the immediate area.

C. California Environmental Quality Act (CEQA)

Section 13096 of the California Code of Regulations requires that a specific finding be made in conjunction with coastal development permit applications showing the application to be consistent with any applicable requirements of CEQA. Section 21080.5(d)(2)(A) of CEQA prohibits a proposed development from being approved if there are feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse effect which the activity may have on the environment.

The Coastal Commission's review and analysis of land use proposals has been certified by the Secretary of Resources as being the functional equivalent of environmental review under CEQA. This staff report has analyzed the environmental impacts posed by the project and identified changes to the project that are necessary to reduce such impact to an insignificant level. Based on these findings, which are



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incorporated by reference as if set forth herein in full, the Commission finds that only as modified and conditioned by this permit will the proposed project avoid significant adverse effects on the environment within the meaning of CEQA.



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